

## SENATE BILL NO. 39

INTRODUCED BY MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON USING A WHEELCHAIR MUST BE CONSIDERED TO BE A PEDESTRIAN; CLARIFYING THAT WHEELCHAIRS ARE NOT VEHICLES OR MOTOR VEHICLES; PROVIDING, WITH CERTAIN EXCEPTIONS, THAT A PERSON USING A WHEELCHAIR IS SUBJECT TO THE PRIVILEGES AND RESTRICTIONS ACCORDED A PEDESTRIAN; REMOVING THE PROVISION ALLOWING THE USE OF CERTAIN WHEELCHAIRS TO BE REGULATED BY CITIES AND TOWNS; AMENDING SECTIONS 61-1-102, 61-1-103, 61-1-308, 61-8-501, AND 61-8-506, MCA; AND REPEALING SECTIONS 49-4-311 AND 49-4-312, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-1-102, MCA, is amended to read:

**"61-1-102. Motor vehicle.** (1) "Motor vehicle":

(a) means a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state;

(b) for the purpose of chapter 3, includes trailers and semitrailers;

(c) for the purpose of chapter 3, parts 1 and 2, includes campers, as defined in 61-1-129, motorboats and personal watercraft, as defined in 23-2-502, sailboats, as defined in 23-2-502, that are 12 feet in length or longer, and snowmobiles, as defined in 23-2-601.

(2) The term does not include a bicycle as defined in 61-1-123 or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as the person's only means of mobility A MEANS OF MOBILITY FOR THAT PERSON."

**Section 2.** Section 61-1-103, MCA, is amended to read:

**"61-1-103. Vehicle.** (1) Except as provided in ~~subsection~~ subsections (2) and (3), "vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.

(2) (a) In chapters 3 and 4, vehicle means "motor vehicle" as defined in this part.

(b) (i) In chapter 8, part 4, vehicle does not include a bicycle as defined in 61-1-123.

(ii) In chapter 8, part 4, except 61-8-440 through 61-8-442, vehicle includes a snowmobile.

(3) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as the person's only means of mobility. A MEANS OF MOBILITY FOR THAT PERSON."

**Section 3.** Section 61-1-308, MCA, is amended to read:

**"61-1-308. Pedestrian.** "Pedestrian" means any person ~~on foot~~ on foot or any person in a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person."

**Section 4.** Section 61-8-501, MCA, is amended to read:

**"61-8-501. Pedestrians subject to traffic regulations.** (1) A pedestrian shall obey the instructions of any traffic control device that is specifically applicable to the pedestrian unless otherwise directed by a police officer.

(2) Pedestrians are subject to traffic control signals and pedestrian control signals at intersections as provided in 61-8-207 and 61-8-208.

(3) At all other places, pedestrians are accorded the privileges and are subject to the restrictions provided in this part.

(4) Local authorities may by ordinance prohibit pedestrians from crossing a roadway within a local government's jurisdiction, except in a marked crosswalk or in an unmarked crosswalk at an intersection.

(5) Except as provided in 61-8-506(3) and except when provisions by their nature can have no application, a person operating a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person is accorded the privileges and is subject to the restrictions applicable to pedestrians provided in this part."

**Section 5.** Section 61-8-506, MCA, is amended to read:

**"61-8-506. Pedestrians on roadways and highways -- wheelchair use on highways.** (1) Where sidewalks are provided and their use is practicable, a pedestrian may not walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided, a pedestrian, other than an intoxicated pedestrian referred to in 61-8-508, who is walking along and upon a highway may walk only on the shoulder, as far as practicable from the edge of the roadway.

~~(3) (a) Where sidewalks are not provided or where their use is not practicable, a person using a wheelchair or other vehicle designed specifically for use by a physically disabled person may operate the wheelchair or other vehicle along and upon a highway as far as practicable from the edge of the roadway only if the wheelchair or other vehicle displays the slow-moving equipment emblem required in 61-9-415(2) or is equipped with a windwhip displaying a red flag.~~

~~———— (b) The provisions of subsection (3)(a) do not apply to:~~

~~———— (i) a person operating a wheelchair or other vehicle designed specifically for use by a physically disabled person on a sidewalk; OR~~

~~———— (ii) PERSON USING A WHEELCHAIR WHO DETOURS ONTO A HIGHWAY IN ORDER TO AVOID AN UNFORESEEN OBSTACLE.~~

(3) A PERSON USING A WHEELCHAIR OR OTHER VEHICLE DESIGNED SPECIFICALLY FOR USE BY A PHYSICALLY DISABLED PERSON SHALL USE SIDEWALKS IF USE OF SIDEWALKS IS PRACTICABLE. IF USE OF SIDEWALKS IS UNSAFE OR NOT PRACTICABLE, THE PERSON MAY USE THE WHEELCHAIR OR OTHER VEHICLE ON A HIGHWAY, AS FAR AS PRACTICABLE FROM THE CENTER OF THE ROADWAY."

NEW SECTION. Section 6. Repealer. Sections 49-4-311 and 49-4-312, MCA, are repealed.

COORDINATION SECTION. SECTION 7. COORDINATION INSTRUCTION. If SENATE BILL NO. 285 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN THE CODE COMMISSIONER SHALL INCLUDE THE REVISIONS TO THE DEFINITIONS OF "MOTOR VEHICLE", "VEHICLE", AND "PEDESTRIAN" IN [THIS ACT] IN THE DEFINITIONS OF THOSE TERMS IN SENATE BILL NO. 285.

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